

APPEAL NO. 032057
FILED SEPTEMBER 18, 2003

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). A contested case hearing was held on June 23, 2003. The hearing officer determined that the appellant (claimant) is not entitled to supplemental income benefits for the 18th quarter. The claimant appeals this decision. The respondent (carrier) urges affirmance of the hearing officer's decision.

DECISION

A timely appeal not having been filed, the decision and order of the hearing officer have become final pursuant to Section 410.169.

Records of the Texas Workers' Compensation Commission (Commission) reflect that the hearing officer's decision was mailed to the claimant on July 8, 2003, at the same address that was listed on the hearing appearance sheet. Pursuant to Section 410.202(a), for an appeal to be considered timely, it must be filed or mailed within 15 days, excluding Saturdays, Sundays, and holidays listed in the Texas Government Code, of the date of receipt of the hearing officer's decision. Applying Tex. W.C. Comm'n, 28 TEX. ADMIN. CODE § 102.5(d) (Rule 102.5(d)) and Section 410.202, the claimant was deemed to have received the hearing officer's decision on July 13, 2003, and the deadline for the claimant to file an appeal was August 1, 2003. A facsimile transmission of the claimant's appeal was received by the Commission on August 4, 2001. There is no indication that an additional copy was mailed to the Commission.

The claimant's request for review indicates that he received the hearing officer's decision and order on July 14, 2003. In Texas Workers' Compensation Commission Appeal No. 94117, decided March 3, 1994, we stated "[w]here Commission records show distribution on a particular day to the address confirmed by the claimant as being accurate, a mere statement that the decision was not received in the mail is not sufficient to extend the date of receipt past the deemed date of [receipt established by Rule 102.5(d)]." The claimant's unexplained statement that he did not receive the decision until July 14, 2003, is insufficient to extend the period for filing a timely appeal. The claimant also states in his appeal that he was advised by Commission personnel that the deadline for filing his appeal was August 4, 2003. If indeed Commission personnel did provide inaccurate information, the claimant's appeal would still not be considered timely as the rules applying to the filing of appeals are jurisdictional and cannot be circumvented.

Because the claimant's appeal was not timely filed, the hearing officer's decision and order have become final pursuant to Section 410.169 and Rule 142.16(f).

The hearing officer's decision and order are affirmed.

The true corporate name of the insurance carrier is **ONE BEACON INSURANCE COMPANY** and the name and address of its registered agent for service of process is

**CT CORPORATION SYSTEM
350 NORTH ST. PAUL STREET
DALLAS, TEXAS 75201.**

Chris Cowan
Appeals Judge

CONCUR:

Robert W. Potts
Appeals Judge

Margaret L. Turner
Appeals Judge